



FOR IMMEDIATE RELEASE
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APPLICATION FILED FOR
RELEASE OF NAMIBIAN CAPTIVES

An urgent application filed on March 5, 1984 in the Supreme Court of Namibia (South West Africa) charges that at least 100 men, women and children have been held illegally and incommunicado for six years by the South African Defence Forces in a military camp near Mariental, Namibia. The application, which is in the nature of a writ of habeas corpus for the release of the detainees, was financed by the Lawyers' Committee for Civil Rights Under Law and filed by correspondent attorneys at the Namibian law firm of Lorentz & Bone.

The application names 23 applicants, among whom are Bishop James Kauluma, Anglican Bishop of Namibia and President of the Council of Churches in Namibia; Bishop Kleopas Dumeni of the Evangelical Lutheran Church, Bishop Bonafatius Haushiku, Catholic Bishop of Namibia; and twenty named relatives and friends of the detainees.

The action was brought against the South African Minister of Defence, General Magnus Malan; the Administrator-General of South West Africa (Namibia), Dr. Willie van Niekerk; the General Officer Commanding the South West Africa (Namibia) Territory Forces; and the commander of the Mariental military camp, Major G.J. Coetzee.

In May 1978, South African bombers and paratroopers invaded Angola and attacked the Cassinga refugee settlement some 150 miles within the Angolan border. Over 600 Namibian refugees were killed, over half of whom were women and children, and some 120 refugees were forcibly abducted from Angola and taken to the Mariental camp by South African military forces.

South Africa initially denied the existence of the detainees but, as the result of international pressure, finally conceded it was holding survivors of the raid on Cassinga. For

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several years no relatives or legal representatives were permitted to visit the camp, but recently the International Committee of the Red Cross and certain relatives were allowed restricted visits.

Attorneys acting for the applicants charge that the captives were "unlawfully seized by the SADF outside the Territory of South West Africa across an international frontier in the sovereign state of Angola...that such seizure was ultra vires the functions and powers of the SADF...and contrary to international law and to the laws of [Namibia]."

No charges have ever been brought against the captives. The South African authorities claim that the detainees are being held under the authority of Proclamation AG 9, a security regulation that permits indefinite incommunicado detention without charge or trial of persons considered a threat to the "peaceful and orderly constitutional development" of Namibia. However, the application charges that the particular section cited as purported authority for the detention of the Cassinga captives was actually enacted subsequent to their capture, abduction and incarceration.

David Smuts, partner at the firm of Lorentz & Bone charged:

"The said captives have been removed against their will from the sovereign state of Angola, held against their will in captivity for nearly six years, denied their common law rights, not the least to liberty, and have not been charged or brought to trial in all that time. It also appears that in certain instances, there has been maltreatment, unlawful under both the laws of this Territory and international law."

There are reports that the detainees have been tortured, physically mutilated and subjected to harsh conditions and hard labor. In an affidavit attached to the application, Benedictus Shilongo, who was captured in Angola along with the Cassinga captives but subsequently released before their transfer to the camp at Mariental, describes his treatment:

"During my detention...I was assaulted on different occasions by the SADF with a bare fist or the open hand and sometimes with a stick.

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"During the detention I was also sometimes given electric shocks and also saw how Nikodemus Katofa was suspended for long periods with his arms bound to a wire fence so that his feet did not touch the ground.

"I was, however, kept blindfolded for the most part of my detention and regularly heard screams in the camp where we were held."

Nikodemus Katofa is among those captives still being held at the camp at Mariental.

Gay J. McDougall, Director of the Southern Africa Project of the Lawyers' Committee for Civil Rights Under Law commented:

"The capture of the Cassinga refugees, their treatment, and their lengthy detention without charge or trial contravenes such a long list of legal norms that it mocks the notion of an international legal order.

"Thirteen years ago, in declaring South Africa's continued presence in Namibia to be illegal, the International Court of Justice stated that the international community as a whole has a duty to take steps to secure an end to South Africa's illegal occupation of that international territory. That mandate, in addition to the violation of the sovereign rights of Angola, the blatant disregard of the mandates of the Geneva Conventions of 1949 concerning both prisoners of war and civilians in war, and the continuing denial of the right of the Namibian people to self-determination should compel the active involvement of the international community in securing the release of the Cassinga captives.

"It is as members of that international community committed to widely-recognized norms of human rights and due process that the Lawyers' Committee felt compelled to give financial and technical assistance to the filing of the application in this case."

Since 1967, the Lawyers' Committee for Civil Rights Under Law has maintained a Southern Africa Project which concerns itself with the eradication of apartheid in South Africa and Namibia. On the basis of a commitment to the maintenance of the rule of law and the promotion of fundamental human rights, the Southern Africa Project provides legal assistance to the defense of political prisoners in South Africa and Namibia.

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